

REMARKS

The Restriction Requirement states that claims 1-10, 29-31, 40-51, 53, 54, 59, 61 and 62 define Invention I that is allegedly drawn to a centralized switching system classified in class 379, subclass 242 and that claims 11-28, 32-39, 56 and 57 define Invention II that is allegedly drawn to a plural exchange interconnection (physically separated network element) classified in class 379, subclass 219. The Restriction Requirement requires election of the claims of Invention I or Invention II for examination. The requirement for election is respectfully traversed and reconsideration is requested.

The Restriction Requirement states that Inventions I and II are related as combination and subcombination. The Restriction Requirement also states that the combination as claimed does not require the particulars of the subcombination as claimed because Invention I does not require the switch intelligence to be physically separated from the switch fabric, as required by Invention II (Restriction Requirement – page 2). The Office Action further states that the subcombination has separate utility, such as the switch intelligence is not only logically separated but physically separated by the switch fabric (Restriction Requirement – page 2).

In order for a restriction to be proper, the inventions must be independent and there must be a serious burden on the Examiner if the restriction is not made (MPEP § 803). The applicants respectfully submit that the Restriction Requirement is improper and should be withdrawn for the reasons detailed below.

Initially, the applicants note that the Restriction Requirement states that the claims of Invention I do not require the switch intelligence to be physically separated from the switch fabric, as required by Invention II (Restriction Requirement – page 2). The applicants strongly disagree with this characterization of the pending claims.

For example, claim 22 (included in Invention II) does not recite that the switch intelligence is physically separated from the switch fabric, as alleged in the Restriction Requirement. For at least this reason, the applicants respectfully assert that the stated reasons for restricting claim 22, and its dependent claims 23-28 and 57 from the claims of Invention I, are based on a mischaracterization of claim 22 and therefore should be withdrawn.

Claim 32 and its dependent claims (included in Invention II) have been allowed. Therefore, the applicants respectfully assert that there would be no reason to restrict claims 32-39 from the claims of Invention I at this point. That is, there would be no serious burden on the Examiner to include these claims with the claims of Invention I since these claims have already been examined and allowed. In addition, claim 32 also does not recite that the switch intelligence is physically separated from the switch fabric, as alleged in the Restriction Requirement. For at least these reasons, the applicants respectfully assert that the restriction of claim 32 and its dependent claims 33-39 from the claims of Invention I should be withdrawn.

The other remaining independent claim included in Invention II (i.e., claim 11) recites that “the switch intelligence is implemented in a separate network element from a network element implementing the switch fabric.” Claim 1 (included in Invention I) also recites that the switch intelligence is “implemented in a separate network element from said switch fabric.” Therefore, the applicants respectfully submit that the stated reasons for restriction of claim 11 and its dependent claims 12-21 and 56 from the claims of Invention I are based on a mischaracterization of the claim language of the pending claims. That is, claim 11 does not recite that the switch intelligence is physically separated from the switch fabric, as alleged in the Restriction Requirement. Moreover, claims 1 and 11 clearly recite similar features with respect

to the switch intelligence being implemented in a separate network element than the switch fabric.

For at least these reasons, the applicants respectfully assert that the reasons for restricting claim 11 and its dependent claims 12-21 and 56 from the claims of Invention I is improper and should be withdrawn.

The applicants also note that the amendment filed September 4, 2007 amended each of claims 11, 22, 29, 30, 40, 44, 45, 47 and 51 to add that “the facility related event is received as raw or unprocessed data which is associated with user activity at a telephone device.” Therefore, other than this feature, which was added to the claims identified above to clarify the term “facility related event,” the Examiner has previously examined all of the pending claims. Based on the fact that each of the independent claims is being amended in the same manner, the applicants submit that examining all of the pending claims would not pose a serious burden on the Examiner.

That is, even if, for the sake of argument, the claims identified as being included within the claims of Invention I and the claims identified as being included with the claims of Invention II did define distinct inventions, the applicants do not believe that further examining each of the pending claims (that have been amended to recite an identical feature with respect to the term “facility related event”) would create a serious burden. In other words, all of the pending claims have been examined in similar forms multiple times. Therefore, the applicants respectfully assert that continuing to examine all the claims at this point, that have merely been amended to include an identical feature, could not pose a serious examination burden.

Still further, the applicants note that a personal interview was conducted on July 31, 2007. During the personal interview, the term “facility related event” was discussed and the

Examiner indicated that further clarification as to this term may overcome the outstanding rejections (See remarks at page 21 of the Amendment filed September 4, 2007). While the applicants understand that the Amendment filed on September 4, 2007 would be subject to further consideration and search, the Examiner did not indicate in the personal interview the possibility that providing such a claim amendment could create a serious burden that would necessitate a Restriction Requirement with respect to the pending claims. Therefore, the applicants assert that in fairness to the applicants, all of the pending claims should now be examined.

Lastly, the Restriction Requirement states that Invention I is drawn to a centralized switching system classified in class 379, subclass 242 and that Invention II is drawn to a plural exchange interconnection classified in class 379, subclass 219 (Office Action – page 2). Class 379, subclass 219 is defined as including a system having more than one exchange (e.g., switching office), or a circuit connection therebetween. Class 379, subclass 242 is defined as including subject matter which selectively connects two telephone subscriber lines for communication. These subclasses clearly include overlapping subject matter. Therefore, the applicants respectfully submit that any search of class 379, subclass 242 would include subject matter of class 379, subclass 219. As a result, the applicants do not believe that searching both subclasses would pose a serious examination burden.

Based on the foregoing remarks, reconsideration of the Restriction Requirement and examination of all the pending claims is respectfully requested.

In the event that the Examiner, after considering the discussion above, still believes that election to a single group of claims is required, the applicants respectfully submit that claims 32-39 should be included with the claims of Invention I since as discussed above, these claims stand

allowed. Therefore, examination of claims 1-10, 29-39, 40-51, 53, 54, 59, 61 and 62 is respectfully requested.

However, if the Examiner does not agree to examine all of the pending claims or at least claims 1-10, 29-39, 40-51, 53, 54, 59, 61 and 62, the applicants provisionally elect the claims of Invention I (i.e., claims 1-10, 29-31, 40-51, 53, 54, 59, 61 and 62) for examination.

CONCLUSION

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,
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